IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 18591 of 2003

Between:

1 M/s.Radhika Silk Mills Private Limited, rep.by its Managing Director, Mr.Rajesh Kumar Agarwal,
Regd.Office:21-1-838, Gandhi Bazar, Hyderabad.
2 Mr.Rajesh Kumar Agarwal, S/o.Sri Tekchand Agarwal R/o.Flat No.510,5th floor, Mahaveer Apartments, King Koti
Hyderabad.
3 Smt.Usha Agarwal, W/o.Sri Rajesh Kumar Agarwal, R/o.Flat No.510, 5th Floor, Mahaveer Apartments,
King Koti, Hyderabad.

..... PETITIONER(S)

AND

1 The Union of India, rep.by its Ministry of Law, Shastry Bhavan, R.P. Road, New Delhi.
2 State Bank of Hyderabad, Tank Bund Branch, Municipal complex, rep.by its Manager.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus (a) striking down the constitutional validity of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, more particularly sections 13,17,18, 32,34,37 and 41 thereof; and (b) set

aside/quash of notices viz. the demand notices dated 19.9.2002 demanding repayment of Rs.58,71,801-05 Paise U/s.13(2) the securitisation Act, and notices for sale dated 10.07.2003, and the possession notice dated 22.08.2003, issued under the provisions of the Securitisation Act 2002 as being illegal, arbitrary and violation of Article 14,19(g), 21 and 300A of the Constitution of India.

Counsel for the Petitioners: MR.VAMARAJUSRIKRISHNUDU

Counsel for respondent No.1: Mr A.Rajasekhar Reddy, SC for CG

Counsel for the Respondent No.2: MR.K.KESAVARDHAN REDDY

The Court made the following ORDER:

(per Hon'ble Sri Devinder Gupta, The Chief Justice)

In view of the decision of the Hon'ble Supreme Court in Transfer Case (Civil) No.92-95 of 2002, dated 8th April, 2004 [MARDIA CHEMICALS LTD v UNION OF INDIA & ORS], challenge to the provisions of the Securitisation And Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 is not tenable and for that reason relief prayed for in this writ petition cannot be granted. Writ petition is, therefore, dismissed.

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DEVINDER GUPTA, CJ

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G.ROHINI, J

July 9, 2004.

nmr

ASSISTANT REGISTRAR

// true copy //

SECTION OFFICER

To

1 Secretary, Union of India, Ministry of Law, Shastry Bhavan, R.P. Road, New Delhi.
2 Manager, State Bank of Hyderabad, Tank Bund Branch, Municipal complex, Hyderabad.

3 2 CD copies.